

ALLOWING A HOMESTEADER SETTLING ON UNSUR-  
VEYED PUBLIC LAND IN ALASKA TO MAKE SINGLE  
FINAL PROOF PRIOR TO SURVEY OF THE LANDS

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JUNE 5, 1956.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

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Mr. ENGLE, from the Committee on Interior and Insular Affairs,  
submitted the following

REPORT

[To accompany H. R. 10504]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H. R. 10504) to allow a homesteader settling on unsurveyed public land in Alaska to make single final proof prior to survey of the lands, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

EXPLANATION OF THE BILL

H. R. 10504, introduced by Delegate Bartlett, of Alaska, as a result of an executive communication from the Secretary of the Interior, has as its purpose allowing a homesteader settling on unsurveyed public land in Alaska to make a single final proof prior to survey of lands.

Compliance with the laws presently governing homestead entry on unsurveyed lands in Alaska requires, in effect, two separate and distinct filings of proof that the residence, cultivation, and improvement requirements have been met by the settler.

Section 2 of the act of July 8, 1916 (48 U. S. C. 375), as added by the act of June 28, 1918 (40 Stat. 633), requires a preliminary showing of "proving up" duly corroborated by two witnesses in order for the settler to qualify for a free survey; after survey, the settler must then make a final proof showing—in effect, again—that the residence, cultivation, and improvement requirements have been met. The act of April 29, 1950 (48 U. S. C. 371c), requires a settler to submit proof of residence, cultivation, and improvements within 5 years after the

date of filing notice of the settlement claim; in turn, it provides for the filing of final proof after the completion of survey.

The committee agrees with the Department of the Interior that these requirements of a dual showing of compliance with homestead-settlement provisions waste time and cause unnecessary expense to the public-land claimants and to the Government in processing two sets of papers which duplicate each other; at the same time, they add nothing to the historic policy of requiring good-faith showings prior to issuance of public-land patents—except redtape.

H. R. 10504, if enacted, will amend the amended 1916 act, and the 1950 act, to make it clear that homestead settlers on unsurveyed public lands in Alaska need file only a single proof of compliance with requirements of the homestead law to qualify for a survey of their land and to acquire a patent thereto. The bill also provides that the settler who has commenced action on his entry may, if he desires, complete his proof by a special survey at his own expense, rather than waiting for a free public survey.

The executive communication from the Department of the Interior dated April 2, 1956, is as follows:

DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
Washington, D. C., April 2, 1956.

Hon. SAM RAYBURN,  
*Speaker of the House of Representatives,*  
Washington, D. C.

MY DEAR MR. SPEAKER: Enclosed is a draft of a proposed bill to allow a homesteader settling on unsurveyed public land in Alaska to make single final proof prior to survey of the lands.

I suggest that the proposed bill be referred to the appropriate committee for consideration, and I recommend that it be enacted.

The proposed bill would make it clear that homestead settlers on unsurveyed public lands in Alaska need only file a single proof of compliance with the residence, cultivation, and improvement requirements of the homestead law to qualify for a free survey of their land and to acquire a patent for the land.

Section 2 of the act of July 8, 1916 (48 U. S. C. 375), as added by the act of June 28, 1918 (40 Stat. 633), now provides for a preliminary showing of such compliance duly corroborated by two witnesses to qualify for a free survey, and a final proof showing of the same facts after survey. Section 4 of the act of April 29, 1950 (48 U. S. C. 371c), which requires settlers to submit proof of residence, cultivation, and improvements within 5 years after the date of filing notice of the settlement claim, also provides for the filing of final proof after the completion of the survey.

These requirements waste time and cause unnecessary expense to public-land claimants and to the Government in processing two sets of papers which duplicate each other. Under the proposed bill only one proof of compliance with the basic requirements of the homestead law would be necessary. The Secretary could provide by regulation for any additional showing that may be necessary as to the

homesteader's qualifications or his acceptance of the survey description of his lands. Instructions for the survey of the land would be issued within 1 year after the filing of homestead proof.

The Bureau of the Budget has advised that there is no objection to the presentation of this proposed legislation to the Congress.

Sincerely yours,

WESLEY A. D'EWART,  
*Assistant Secretary of the Interior.*

A BILL To allow a homesteader settling on unsurveyed public land in Alaska to make single final proof prior to survey of the lands

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 2 of the Act of July 8, 1916, as amended (48 U. S. C., sec. 375) is further amended to read as follows:

"SEC. 2. The entryman may, after due compliance with the terms of the homestead laws, file his final homestead proof in accordance with applicable regulations of the Secretary of the Interior regardless of whether or not the system of public surveys has been extended over the land included in a homestead entry. The Secretary of the Interior shall, within one year after the filing of such proof, issue proper instructions for the survey of the land so entered, without expense to the entryman, and if the entryman has complied with the requirements of the homestead law and applicable regulations a patent based on such survey shall be issued. Nothing in this section however shall prevent the homesteader from securing earlier action on his entry and proof by a special survey at his own expense, if he so elects."

SEC. 2. Section 4 of the Act of April 29, 1950 (48 U. S. C., sec. 371c) is amended to read as follows:

"A homestead settler on unsurveyed public lands shall make final or commutation homestead proof within five years from the date of the filing of notice of the settlement claim in the district land office, as a basis for a free survey under section 2 of the Act of July 8, 1916, as amended (48 U. S. C., sec. 375) in accordance with regulations of the Secretary of the Interior."

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The Committee on Interior and Insular Affairs recommends enactment of H. R. 10504.

#### CHANGES IN EXISTING LAW

In compliance with clause 3, rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as introduced, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 2 OF THE ACT OF JULY 8, 1916, AS AMENDED (39 STAT. 352;  
48 U. S. C. 375)

That every person who is qualified under existing laws to make homestead entry of the public lands of the United States who has settled upon or who shall hereafter settle upon any of the public lands of the United States situated in the District of Alaska, whether sur-

veyed or unsurveyed, with the intention of claiming the same under the homestead laws, shall, subject to the provisions and limitations of the Act approved March third, nineteen hundred and three, chapter one thousand and two, United States Statutes at Large, page one thousand and twenty-eight, be entitled to enter one hundred and sixty acres or a less quantity of unappropriated public land in said District of Alaska, and no more, and a former homestead entry in any other State or Territory shall not be a bar to a homestead entry in Alaska: *Provided*, That nothing herein contained shall be construed to limit or curtail the area of any homestead claim heretofore lawfully initiated.

SEC. 2. [If the system of public surveys has not been extended over the land included in a homestead entry, the entryman may, after due compliance with the terms of the homestead law in the matter of residence, cultivation, and improvement, submit to such officer as the Secretary of the Interior may designate a showing as to such compliance, duly corroborated by two witnesses, and if such evidence satisfactorily shows that the homesteader is in a position to submit acceptable final proof, such officer as the Secretary of the Interior may designate will be so advised and will, not later than the next succeeding surveying season, issue proper instructions for the survey of the land so entered, without expense to the entryman, who may thereafter submit final proof as in similar entries of surveyed lands. So far as practicable, such survey shall follow the general system of public-land surveys, and the entryman shall conform his boundaries thereto: *Provided*, That nothing herein shall prevent the homesteader from securing earlier action on his entry by a special survey at his own expense, if he so elects.] *The entryman may, after due compliance with the terms of the homestead laws, file his final homestead proof in accordance with applicable regulations of the Secretary of the Interior regardless of whether or not the system of public surveys has been extended over the land included in a homestead entry. The Secretary of the Interior shall, within one year after the filing of such proof, issue proper instructions for the survey of the land so entered, without expense to the entryman, and if the entryman has complied with the requirements of the homestead law and applicable regulations a patent based on such survey shall be issued. Nothing in this section however shall prevent the homesteader from securing earlier action on his entry and proof by a special survey at his own expense, if he so elects.*

SEC. 3. That there shall be excepted from homestead settlement and entry under this Act the lands in Annette and Pribilof Islands, the islands leased or occupied for the propagation of foxes, and such other lands as have been, or may be, reserved or withdrawn from settlement or entry.

#### SECTION 4 OF THE ACT OF APRIL 29, 1950 (48 U. S. C. 371c)

That the part of the Act of March 3, 1903 (32 Stat. 1028, 48 U. S. C., sec. 371), which reads: "that the record of said location shall, within ninety days from the date of settlement, be filed for record in the recording district in which the land is situated. Said record shall contain the name of the settler, the date of the settlement, and such a description of the land settled upon, by reference to some natural object or permanent monument, as will identify the same; and, if after the expiration of the said period of five years or at such date as the settler may desire to commute the public surveys of the United

States have not been extended over the land located, a patent shall nevertheless issue for the land included within the boundaries of said location as thus recorded, upon proof to be submitted to the register and receiver of the proper land office, upon proof that he is a citizen of the United States, and upon the further proof required by section twenty-two hundred and ninety-one of the Revised Statutes of the United States as heretofore and herein amended, and under the procedure in the obtaining of patents to the unsurveyed lands of the United States, as provided for by section ten of the Act hereby amended, and under such rules and regulations as shall be prescribed by the Secretary of the Interior as hereinbefore provided, without the payment of any purchase price or other charges, except the ordinary office fees and commissions of the register and receiver except one dollar and twenty-five cents per acre on land commuted:" is hereby amended to read as follows: "that within ninety days from the date of settlement on surveyed or unsurveyed lands a notice shall be filed by or on behalf of the settler for record in the United States land office for the district in which the land is situated. Said notice shall contain the name of the settler and the date of the settlement, and such a description of the land settled upon, if surveyed, by legal subdivisions, section, township, and range, or, if unsurveyed, by reference to some natural object or permanent monument and by a statement if desired, of the approximate latitude and longitude determined from a map of Alaska, as will identify the land; and, if after the expiration of the period of three years, or at such date as the settler may desire to commute, the public surveys of the United States have not been extended over the land located, a patent shall nevertheless issue for the land included within the boundaries of said location as thus recorded, upon proof to be submitted to the manager of the proper land office that the settler is a citizen of the United States, and upon the further proof required by section twenty-two hundred and ninety-one of the Revised Statutes of the United States as heretofore and herein amended, and under the procedure in the obtaining of patents to the unsurveyed lands of the United States, as provided for by section ten of the Act hereby amended, and under such rules and regulations as shall be prescribed by the Secretary of the Interior as hereinbefore provided without the payment of any purchase price or other charges, except the ordinary office fees and commissions, and except one dollar and twenty-five cents per acre on the land commuted:".

SEC. 2. Any person who at the effective date of this Act is maintaining a settlement claim on surveyed or unsurveyed public land in Alaska shall file notice of the location of his settlement claim in the United States land office for the district in which the land is situated, (a) within ninety days from the effective date of this Act, if notice of the location has not heretofore been filed in the recording district in which the land is situated, or (b) within two years from the effective date of this Act, if notice of the location has heretofore been filed in such recording district.

SEC. 3. Unless notice of a settlement claim is filed in the proper district land office within the time prescribed by sections 1 and 2 of this Act, the claimant, in making homestead proof or submitting a showing of residence, cultivation and improvements as a basis for a free survey, shall not be given credit for such residence and cultiva-

tion as may have taken place prior to the filing of (a) a notice of the claim in the proper district land office, (b) a petition for survey, or (c) an application for homestead entry, whichever is the earlier.

SEC. 4. A homestead settler on unsurveyed public lands shall make [proof of residence, cultivation, and improvements] *final or commutation homestead proof* within five years from the date of the filing of notice of the settlement claim in the district land office, as a basis for a free survey under section 2 of the Act of July 8, 1916 [(39 Stat. 352, 48 U. S. C., 375) and thereafter shall submit final or commutation proof], *as amended (48 U. S. C. 375)* in accordance with regulations of the Secretary of the Interior.

SEC. 5. All qualified persons, associations, or corporations now holding or hereafter initiating claims subject to the provisions of section 10, Act of May 14, 1898 (30 Stat. 413, 48 U. S. C., sec. 461), as amended, shall file a notice describing such claim in the manner specified by section 1 of this Act in the United States land office for the district in which the land is situated within ninety days from the effective date of this Act or within ninety days from the date of the initiation of the claim, whichever is later. Unless such notice is filed in the proper district land office within the time prescribed the claimant shall not be given credit for the occupancy maintained in the claim prior to the filing of (1) a notice of the claim in the proper district land office, or (2) an application to purchase, whichever is earlier. Application to purchase claims, along with the required proof or showing, must be filed within five years after the filing of the notice of claim under this section.